

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

STATE OF TEXAS, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
EDUCATION, *et al.*,

Defendants.

Case No. 2:24-cv-86-Z
District Judge Matthew J. Kacsmaryk

**DEFENDANTS' RESPONSE TO MOTION FOR STAY OF AGENCY
ACTION AND PRELIMINARY INJUNCTION**

Defendants the United States of America; Miguel Cardona, in his official capacity as Secretary of Education; United States Department of Education; Catherine Lhamon, in her official capacity as Assistant Secretary for Civil Rights, Department of Education; and Randolph Wills, in his official capacity as Deputy Assistant Secretary for Enforcement, Department of Education (together “Defendants”) respectfully submit this response to Plaintiffs’ Motion for Stay of Agency Action and Preliminary Injunction. To secure a preliminary injunction, Plaintiffs must show: “a substantial likelihood of success on the merits,” “a substantial threat of irreparable injury,” “that the threatened injury if the injunction is denied outweighs any harm that will result if the injunction is granted,” and “that the grant of an injunction will not disserve the public interest.” *Jordan v. Fisher*, 823 F.3d 805, 809 (5th Cir. 2016) (citation omitted). “A preliminary injunction is an extraordinary remedy never awarded as of right,” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008), and “should only be granted when the movant has clearly carried the burden of persuasion,” *Anderson v. Jackson*, 556 F.3d 351, 360 (5th Cir. 2009). Where a stay of agency

action under 5 U.S.C. § 705 is available as a form of relief, “[t]he factors governing issuance of a preliminary injunction also govern issuance of a § 705 stay.” *Dist. of Columbia v. USDA*, 444 F. Supp. 3d 1, 15 (D.D.C. 2020) (citing *Cuomo v. U.S. Nuclear Regulatory Comm'n*, 772 F.2d 972, 974 (D.C. Cir. 1985)). As Defendants explain in the accompanying brief in support of their response, Plaintiffs have not satisfied their burden and demonstrated an entitlement to preliminary relief. Accordingly, Defendants oppose Plaintiffs’ Motion for Stay of Agency Action and Preliminary Injunction.

Dated: June 14, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2024, I electronically filed this document with the Court by using the CM/ECF system, and that this document was distributed via the Court's CM/ECF system.

/s/ Elizabeth Tulis _____